NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

JACKSON *v.* INDIANA

CERTIORARI TO THE SUPREME COURT OF INDIANA

No. 70–5009. Argued November 18, 1971—Decided June 7, 1972

The Indiana procedure for pretrial commitment of incompetent criminal defendants set forth in Ind. Ann. Stat. § 9–1706a provides that a trial judge with "reasonable ground" to believe the defendant to be incompetent to stand trial must appoint two examining physicians and schedule a competency hearing, at which the defendant may introduce evidence. If the court, on the basis of the physicians' report and "other evidence," finds that the defendant lacks "comprehension sufficient to understand the proceedings and make his defense," the trial is delayed and the defendant is remanded to the state department of mental health for commitment to an "appropriate psychiatric institution" until defendant shall become "sane." Other statutory provisions apply to commitment of citizens who are "feeble-minded, and are therefore unable properly to care for themselves." The procedures for committing such persons are substantially similar to those for determining a criminal defendant's pretrial competency, but a person committed as "feeble-minded" may be released "at any time" his condition warrants it in the judgment of the superintendent of the institution. Indiana also has a comprehensive commitment scheme for the "mentally ill," *i. e.*, those with a "psychiatric disorder" as defined by the statute, who can be committed on a showing of mental illness and need for "care, treatment, training or detention." A person so committed may be released when the superintendent of the institution shall discharge him, or when he is cured.

Petitioner in this case, a mentally defective deaf mute, who cannot read, write, or virtually otherwise communicate, was charged with two criminal offenses and committed under the § 9–1706a procedure. The doctors' report showed that petitioner's condition precluded his understanding the nature of the charges against him or

Syllabus

participating in his defense and their testimony showed that the prognosis was "rather dim"; that even if petitioner were not a deaf mute he would be incompetent to stand trial; and that petitioner's intelligence was not sufficient to enable him ever to develop the necessary communication skills. According to a deaf-school interpreter's testimony, the State had no facilities that could help petitioner learn minimal communication skills. After finding that petitioner "lack[ed] comprehension sufficient to make his defense," the court ordered petitioner committed until such time as the health department could certify petitioner's sanity to the court. Petitioner's counsel filed a motion for a new trial, which was denied. The State Supreme Court affirmed. Contending that his commitment was tantamount to a "life sentence" without his having been convicted of a crime, petitioner claims that commitment under § 9–1706a deprived him of equal protection because, absent the criminal charges against him, the State would have had to proceed under the other statutory procedures for the feeble-minded or those for the mentally ill, under either of which petitioner would have been entitled to substantially greater rights. Petitioner also asserts that indefinite commitment under the section deprived him of due process and subjected him to cruel and unusual punishment. *Held:*

1. By subjecting petitioner to a more lenient commitment standard and to a more stringent standard of release than those generally applicable to all other persons not charged with offenses, thus condemning petitioner to permanent institutionalization without the showing required for commitment or the opportunity for release afforded by ordinary civil commitment procedures, Indiana deprived petitioner of equal protection. Cf. *Baxstrom* v. *Herold*, 383 U. S. 107. Pp. 7–14.

2. Indiana's indefinite commitment of a criminal defendant solely on account of his lack of capacity to stand trial violates due process. Such a defendant cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain competency in the foreseeable future. If it is determined that he will not, the State must either institute civil proceedings applicable to indefinite commitment of those not charged with crime, or release the defendant. *Greenwood* v. *United States*, 350 U. S. 366, distinguished. Pp. 15–23.

3. Since the issue of petitioner's criminal responsibility at the time of the alleged offenses (as distinguished from the issue of his

competency to stand trial) has not been determined and other matters of defense may remain to be resolved, it would be premature for this Court to dismiss the charges against petitioner. Pp. 23–25.

— Ind. —, 255 N. E. 2d 515, reversed and remanded.

BLACKMUN, J., delivered the opinion of the Court, in which all members joined except POWELL and REHNQUIST, JJ., who took no part in the consideration or decision of the case.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 70–5009

Theon Jackson, Petitioner,
v.
State of Indiana.

On Writ of Certiorari to the Supreme Court of Indiana.

[June 7, 1972]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

We are here concerned with the constitutionality of certain aspects of Indiana's system for pretrial commitment of one accused of crime.

Petitioner, Theon Jackson, is a mentally defective deaf mute with a mental level of a pre-school child. He cannot read, write, or otherwise communicate except through limited sign language. In May 1968, at age 27, he was charged in the Criminal Court of Marion County, Indiana, with separate robberies of two women. The offenses were alleged to have occurred the preceding July. The first involved property (a purse and its contents) of the value of four dollars. The second concerned five dollars in money. The record sheds no light on these charges since, upon receipt of not guilty pleas from Jackson, the trial court set in motion the Indiana procedures for determining his competency to stand trial. Ind. Ann. Stat. § 9–1706a (Supp. 1971),[1] now Ind. Code 35–5–3–2 (1971).

[1] "9–1706a. Commitment before trial—Subsequent actions.—When at any time before the trial of any criminal cause or during the progress thereof and before the final submission of the cause to the court or jury trying the same, the court, either from his own knowledge or upon the suggestion of any person, has reasonable ground for believing the defendant to be insane, he shall immediately fix a time